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EDMUND G. BROWN JR.
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AFL 11-07

TO: General Acute Care Hospitals
Acute Psychiatric Hospitals
Special Hospitals

SUBJECT: Hospital Infant Safe Surrender Requirements

This All Facilities Letter (AFL) is being sent to remind hospitals of facility and staff requirements for receiving surrendered infants under Health & Safety Code (HSC) Section 1255.7.

The “safe surrender” law allows designated entities including hospitals to accept custody of a minor child 72 hours old or younger (hereinafter referred to as “infant”) from a parent or individual who has lawful custody of the infant and surrenders custody pursuant to Penal Code Section 271.5. Penal Code Section 271.5 exempts parents who surrender their infants to on duty personnel at designated safe surrender sites from criminal prosecution for abandonment, desertion, and failure to provide for their children.

The intent of HSC Section 1255.7 is to encourage safe and healthy births by providing individuals surrendering newborns freedom from prosecution and confidentiality while also preventing newborn harm and infant deaths resulting from abandonment in unsafe locations.

An infant is considered to be safely surrendered if all the following apply:

- Is 72 hours old or younger;
- Is voluntarily surrendered by a parent or an individual with lawful custody¹
- Is surrendered to personnel on duty at a designated safe surrender site; and
- Has not suffered abuse and/or neglect.²

¹ Health and Safety Code, section 1255.7(j) defines “lawful custody” as “the physical custody of a minor 72 hours old or younger accepted by a person from a parent of the minor, who the person believes in good faith is the parent of the minor, with the specific intent and promise of affecting the safe surrender of the minor.”

² Per Penal Code, section 11165.13, a positive toxicology screen at the time of the delivery of an infant is not, in and of itself, a sufficient basis for reporting child abuse and/or neglect.

A safe surrender site may be a location designated by the county board of supervisors or a location within a public or private hospital designated by the hospital to accept physical custody of safely surrendered infants. Hospitals must post a sign at the designated location that displays a statewide logo that has been adopted by the California Department of Social Services (CDSS).

Hospital personnel (hospital officer, employee, or individual with staff privileges) on duty in designated hospital locations shall accept physical custody of a safely surrendered infant if a parent or other individual having lawful custody of the child voluntarily surrenders physical custody of the infant to such personnel.

An infant may be surrendered under the safe surrender law regardless of where the infant was born. When this occurs, hospital staff must ensure the following:

- The birth mother, by word or action, indicates that she does not want to keep her infant;
- The birth mother is voluntarily surrendering physical custody of the infant; and
- The infant is in the care of hospital personnel.

Required actions by hospital personnel upon accepting custody of safely surrendered infant

Once accepting physical custody of a safely surrendered infant, hospital staff must ensure that a qualified person does all of the following:

- (1) Places a coded, confidential ankle identification bracelet on the infant.
- (2) Provides, or makes a good faith effort to provide, to the parent or other individual surrendering the infant a copy of a unique, coded, confidential ankle bracelet identification in order to facilitate reclaiming of the infant to parent or individual surrendering custody.

NOTE: If, prior to the filing of a petition for custody by child protective services or the county welfare agency, a parent or individual who has voluntarily surrendered an infant requests the hospital that has physical custody of the infant return the infant and the hospital still has custody of the infant, hospital personnel shall either return the infant to the parent or individual or contact a child protective agency if any hospital personnel knows or reasonably suspects that the infant has been the victim of child abuse or neglect.

- (3) Provides, or makes a good faith effort to provide, to the parent or other individual surrendering the infant, the voluntary CDSS medical information questionnaire. The questionnaire can be viewed at the following link:

http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acin/2010/l-88_10.pdf

- (4) Ensure that a medical screening examination and any necessary medical care is provided to the infant. (Prior consent of the parent or other relative shall not be required to provide this care.)
- (5) As soon as possible, but in no event later than 48 hours after the physical custody of a safely surrendered infant has been accepted, notifies child protective services or a county welfare agency providing child welfare services that the hospital has physical custody of the infant.
- (6) Provides child protective services, or a county agency providing child welfare services, medical information pertinent to the infant's health, including, but not limited to, information obtained, if any, on the voluntary medical information questionnaire.

NOTE: Hospitals must treat any personal identifying information that pertains to a parent or individual who surrenders an infant obtained on the medical information questionnaire as confidential. Such information shall be redacted from any medical information provided to child protective services or the county agency providing child welfare services.

A fact sheet on the statutory requirements is available at the CDSS website at:

<http://www.babysafe.ca.gov/res/pdf/SSBFactSheet.pdf>

If you have questions regarding hospital requirements, contact your local district office.

Sincerely,

Original Signed by Pamela Dickfoss

Pamela Dickfoss
Acting Deputy Director
Center for Health Care Quality